



# **Public Health Nursing and the Law**

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## **Essential Service #6**

### **Enforce laws and regulations that protect health and ensure safety**

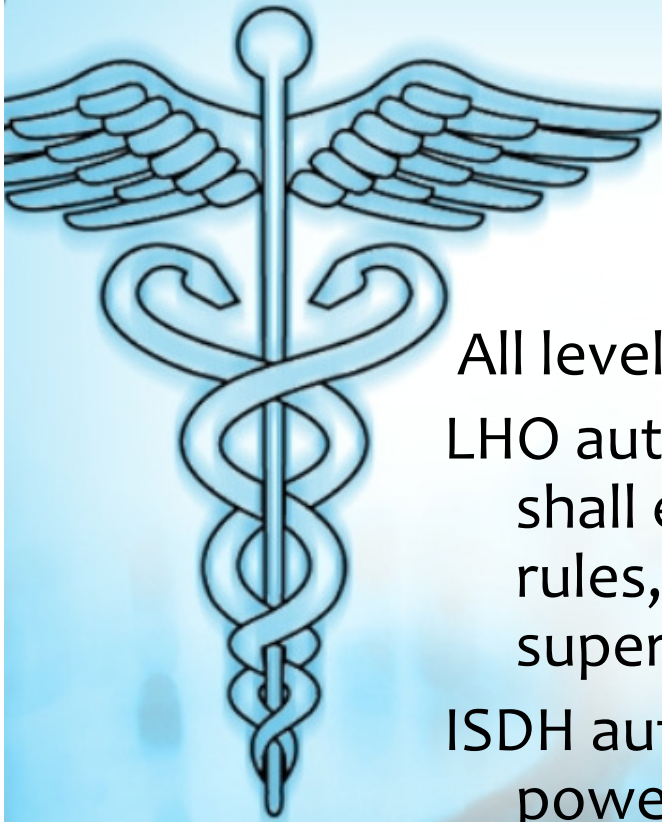
- reviewing, revising, evaluating laws to protect public health
- education of persons or entities obligated to either obey or enforce laws
- enforcement activities in areas of public concern: ex., vector control, lead, food safety, mhp regulation, housing & sanitary code, abatement of nuisances.....



## LHD Powers , I.C. Art 20

- Development of health programs, community outreach- contract authority, I.C. 16-20-1-8
- Collect, record, report vital statistics, I.C. 16-20-1-17
- Communicable disease controls, I.C. 16-20-1-21
- Sanitary inspections, I.C. 16-20-1-22
- Epidemic controls, school closures, I.C. 16-20-1-24
- Unlawful conditions, abatement orders to stop transmission or generation of disease, I.C. 16-20-1-25
- Power to seek injunction (enforcement of order) in court of law, I.C. 16-20-1-26





## Essential Service # 6 (cont.)

- All levels interact & are given expansive powers:
  - LHO authority, IC 16-20-1-19... local health officers shall enforce the health laws, ordinances, orders, rules, and regulations of the officer's own and superior boards of health
  - ISDH authority, IC 16-19-3-1 – shall possess “all powers necessary to fulfill the duties... and bring action in the courts for enforcement of health laws”
  - Gov's authority – broad – public health emergency, IC 10-14-3-11(b), may make, amend, and rescind orders, rules, and regulations as necessary



# Government Role in Public Health

Tension between practice of medicine --individual patient focused & public health --community oriented, promotes health of population

“public health” – public officials taking appropriate measures pursuant to specific legal authority, **after balancing private rights and public interests**, to protect the health of the public.”



## Role of Attorneys in Public Health Sector

- Assisting in promulgating **rules**
- Assisting programs in drafting proposed **legislation**
- Issuing **legal advice** to State programs
- **Administrative litigation** as plaintiff and defendant
- Representing public health entities in a **local court of law** (AG and county attys)





## **AUTHORITY**

- **Indiana Code Title 16**
  - Statutes
  - Enacted by General Assembly
  - General
- **Administrative Code Title 410**
  - Rules
  - Agency Promulgated
  - Specific
- 848 State Bd of Nursing

**Standard Legal Citation Format =  
Title » Article » Chapter » Section  
IC 16 - 20 - 1 - 24**



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Watch Indiana General Assembly LIVE

The Indiana General Assembly has adjourned Sine Die.

THE DAILY SCHEDULE

Senate

House

There are no Senate committee meetings scheduled for today.

pg: 1/1 [Full Senate Schedule](#)

Fri, May 07, 2010

View Indiana Code

The Indiana Code is organized by Title, Article, Chapter, and Section. Enter the numbers of the code cite you would like to view in the corresponding boxes. (Only the Title Box must be filled).

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## Nursing Practice Laws

- Indiana Professional Licensing Agency website – provides many relevant links
  - [www.pla.in.gov](http://www.pla.in.gov)
  - Nurse Practice Act – found at IC 25-23
  - Health Professions Standards of Practice Act – found at IC 25-1-9
  - Universal Precautions – found at IC 16-41-11



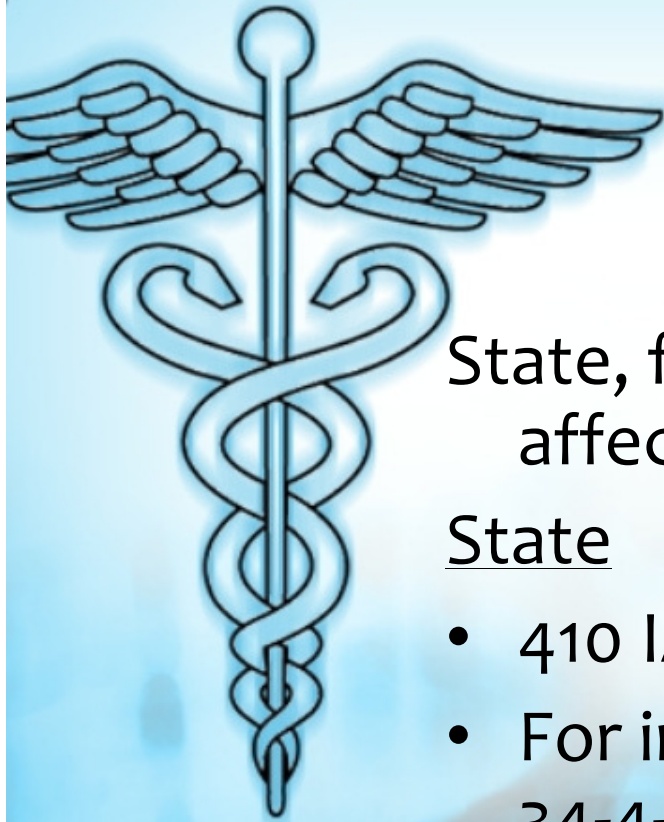
## Local Health Departments

Immunization

Communicable Disease  
Control

Information/Data Sharing

Preparedness/  
Emergency Response



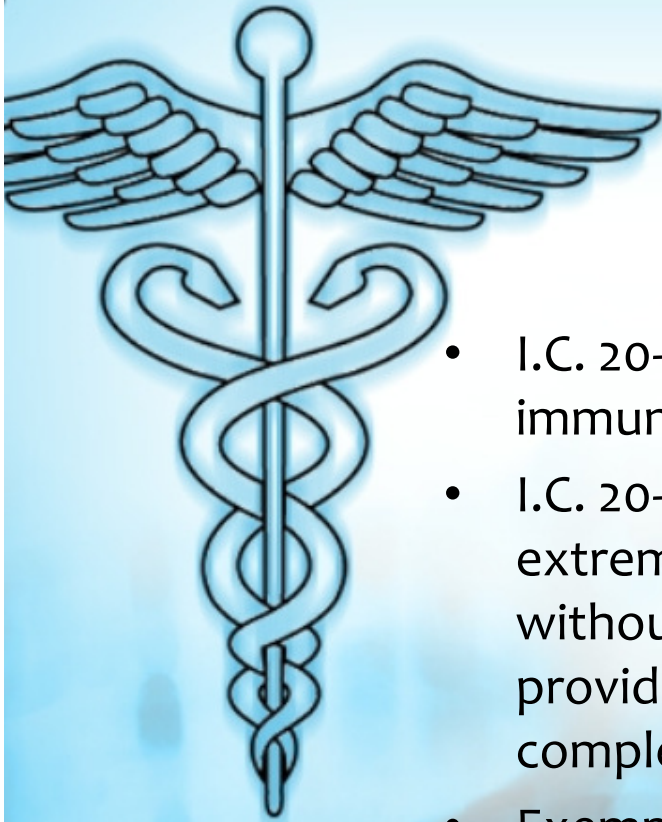
# Immunizations Laws

State, federal, professional statutes/reg  
affect your immunizations practice/clinics:

## State

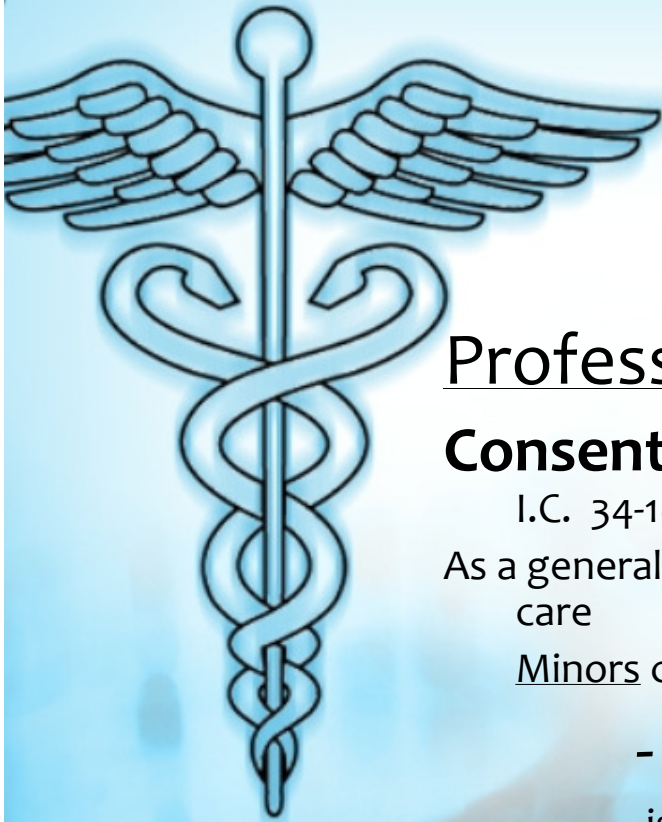
- 410 IAC 1-1-1 Immunization Requirements
- For immunizing school children – I.C. 20-34-4-2(e) allows ISDH to adopt rules on:
  - Req. immunizations
  - Child's age for administration
  - Adequately immunizing dose
  - Method of documentation of immunity





## LHDs & Immunizations (cont.)

- I.C. 20-34-4-4; LHD authority; if a parent cannot secure immunizations for their child, the LHD may provide it
- I.C. 20-34-4-5; LHD may make a determination (based on extreme circumstances) allowing student to start school without required immunizations... if so, issue in writing & provide parent a schedule of when vaccines will be completed to give to school
- Exemptions \*renewed every year
  - medical, I.C. 20-34-3-3... needed for each vaccine, can be provided by nurse practitioner (physician, also physician's asst); must be "detrimental" to health
  - religious, I.C. 20-34-3-2



## LHDs & Immunizations (cont)

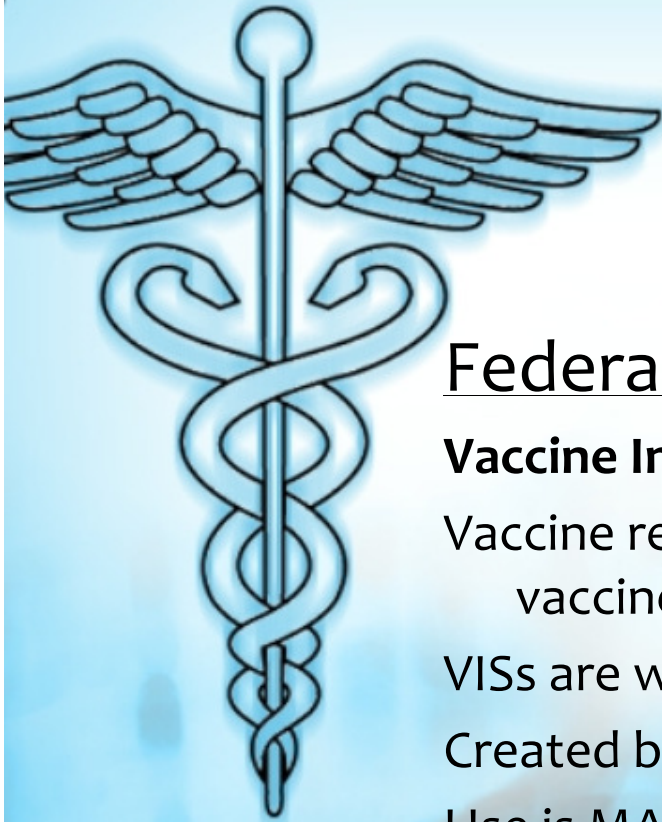
### Professional

**Consent issue** – informed consent required prior to care or treatment, I.C. 34-18-12-4; does not have to be written, I.C. 34-18-12-6

As a general rule only competent adults (age 18) can consent to own health care

Minors can only consent if:

- is emancipated;
- is at least 14 yrs old, not dependent on parents for support, is living apart & managing his/her own affairs; is or has been married; is in the military service of US; or is made able to consent by another statute
- exceptions: donating blood (17 yrs); treatment for actual, suspected or potential (exposed) venereal disease (no age limit). Pregnancy & contraception are not exceptions!



## LHDs & Immunizations (cont)

### Federal

#### **Vaccine Information Statements (VISs)**

Vaccine recipients must receive info on risks associated with vaccine & possible adverse events

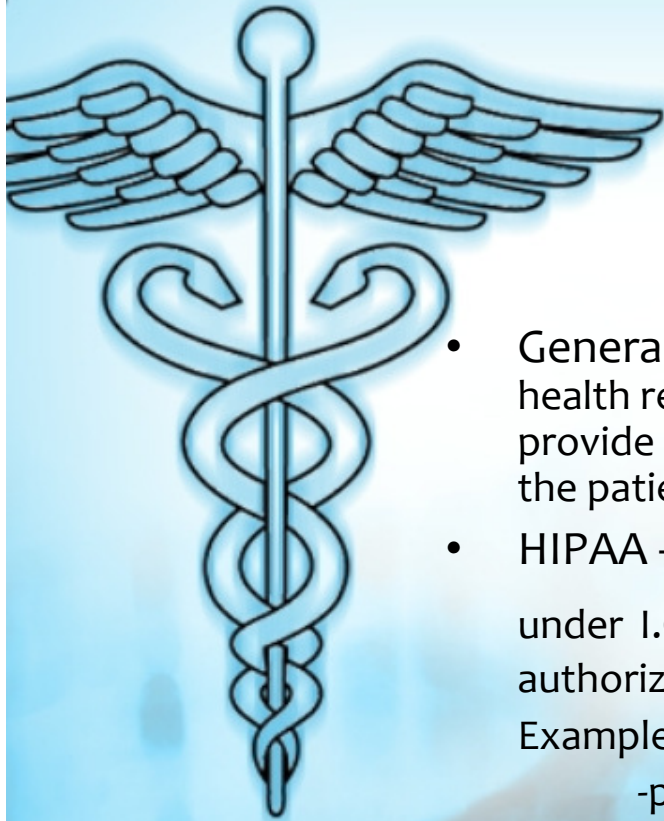
VISs are ways to standardize this information

Created by CDC to give risks & benefits

Use is **MANDATORY** – required by federal legislation, the **National Childhood Vaccine Injury Act**

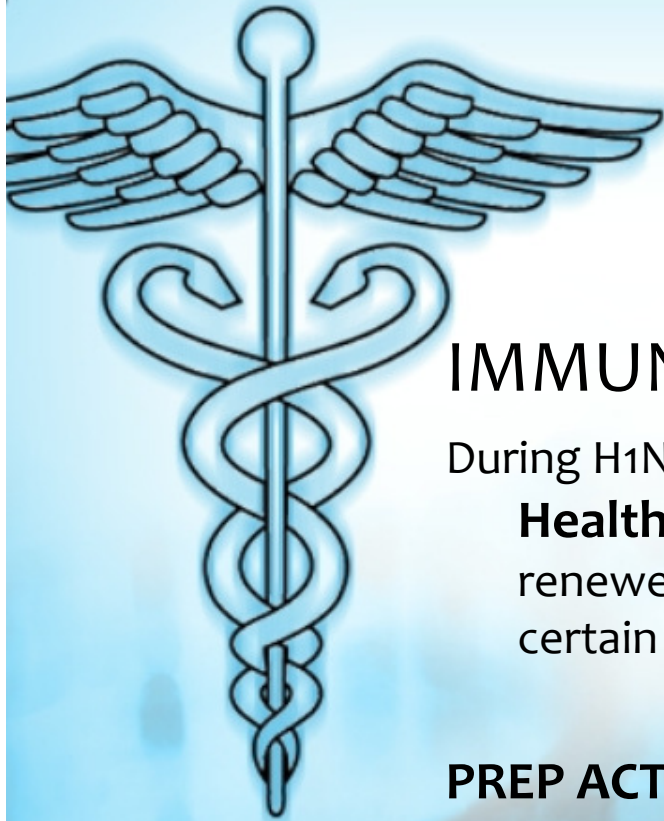
Must be given before administration; must be recorded in patient's chart that VIS was given & date given; publication date of VIS must be noted on patient chart





# Confidentiality

- General health record statute – IC 16-39-5-1 allows a provider to share a health record with another provider if the health record is needed to provide health care services to a patient, the sharing can be done without the patient's consent
- HIPAA – Public Health Exception: LHD may provide health services under I.C. 16-20-1-8(a). May disclose PHI without notification or authorization to....  
Examples: -another public health authority, ex. Disease surveillance  
-public health authority or gov. authority authorized to receive child abuse reports  
-person who may have been exposed to a communicable disease or is at risk of spreading a disease ; i.e. LHD reports to ISDH by required reporting
- Which controls, state law or HIPAA (fed)? State law controls if more stringent privacy protections are offered, ex. Communicable disease confidentiality statute, I.C. 16-41-8



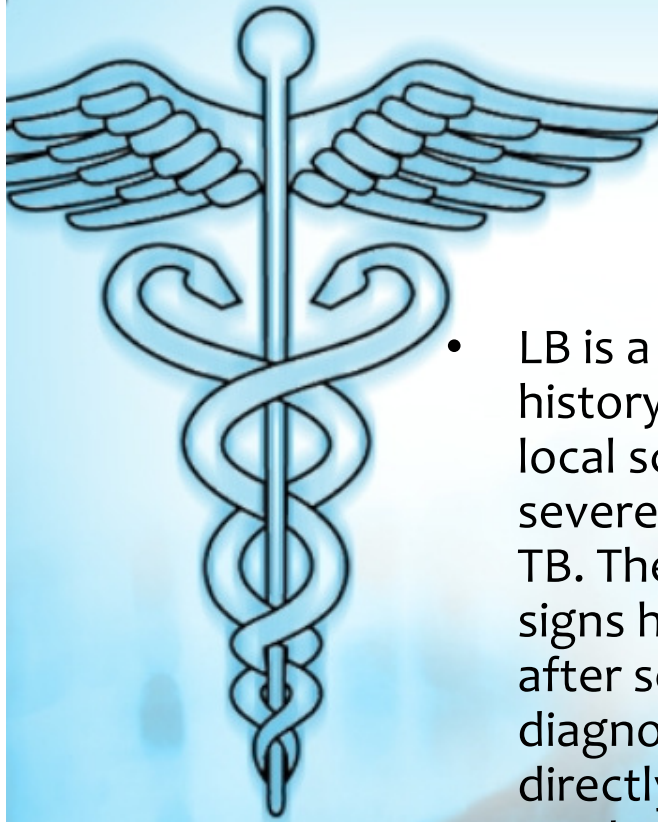
# Emergency Situations

## IMMUNITY

During H1N1 – HHS Secretary made a **Determination that Public Health Emergency (PHE) Exists...** 90 day period, may be renewed, for significant outbreaks of infectious disease ... waives certain regulatory requirements, gives access to emergency funds

## PREP ACT – federal Public Readiness & Emergency Preparedness Act

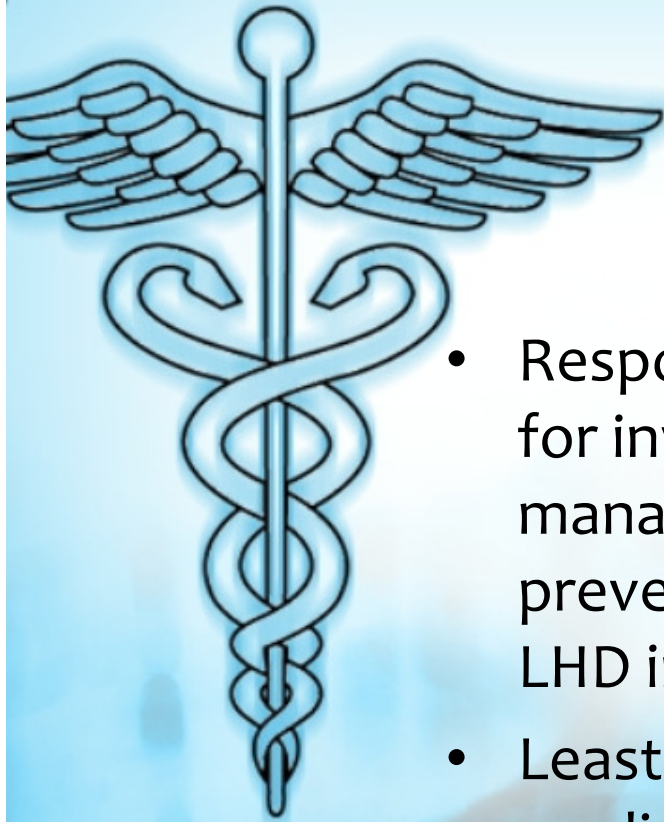
- creates immunity from tort liability for covered persons (includes state or local govs who supervise or administer a program using a countermeasure and employees & qualified persons under state law to prescribe, administer or dispense countermeasure) who are involved in administration & use of H1N1 vaccine



## Communicable Disease Outbreak

- LB is a 30-year-old male with no permanent address and a history of STDs. He is currently working as a custodian at a local school. LB is admitted to a local hospital for fever and severe coughing. Chest X-rays and preliminary tests indicate TB. The hospital orders sputum testing, however, LB refuses, signs himself out, and returns to work. Two months later, after severe symptoms, LB returns to the hospital, is diagnosed with active TB, and reluctantly agrees to undergo directly observed therapy for TB at a relative's house. After 6 weeks of DOT, LB considers himself cured, moves out of the relative's house and disappears. Six months later, LB resurfaces and checks back into the hospital with similar symptoms. What are the options for the Local Health Department?





## Communicable Disease Control

- Responsibility and authority for investigation, case management, and prevention is granted to LHD in IC 16-20-1-21
- Least restrictive, but medically necessary means
- When does a non-compliant carrier become a recalcitrant?

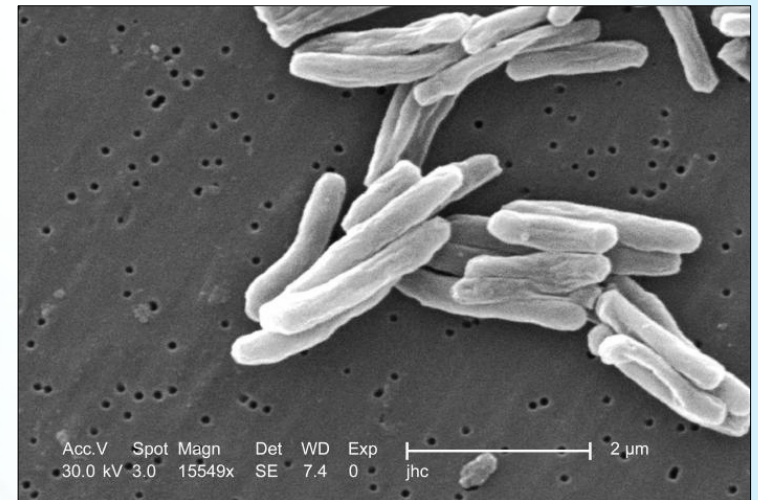


**ALERT**  
*Stop Tuberculosis Worldwide*



## Tools for Communicable Disease Control

- Health Directive
- Isolation (last resort)
- Restriction of Movement
- Privacy Exceptions for Case Management. IC16-41-8-1
- Cooperation of local law enforcement







## Emergency Response Scenario

In January 2011, an earthquake of unusual seismic magnitude and intensity strikes central Indiana. Many hospitals and other health care facilities are severely affected by the event. With much of the infrastructure damaged, public health officials and their staff are called upon to take action. Nurses are needed for dispensing vaccines and antibiotics, administering triage, and evaluating victims. What are some of the legal challenges facing medical personnel in an emergency situation?





## Example of Powers and Duties

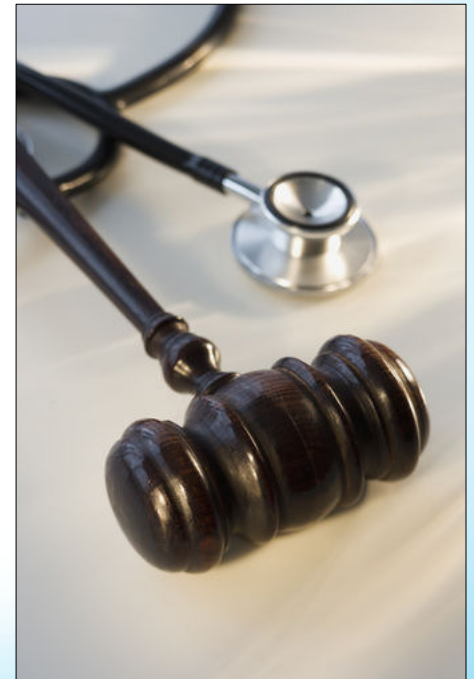
- Close, direct, evacuate or decontaminate any facility or material that is reasonably believed to endanger the public health.
- Construct, transport, store, maintain, renovate, distribute, or procure including by condemnation any materials and facilities found reasonably necessary to respond to the public health emergency.
- Require a health care facility to provide services or the use of its facility if reasonable and necessary to respond to the public health emergency.



# Liability

## EXAMPLES:

- Vaccination without consent
- Trespassing
- Public Disclosure of PHI
- Negligence

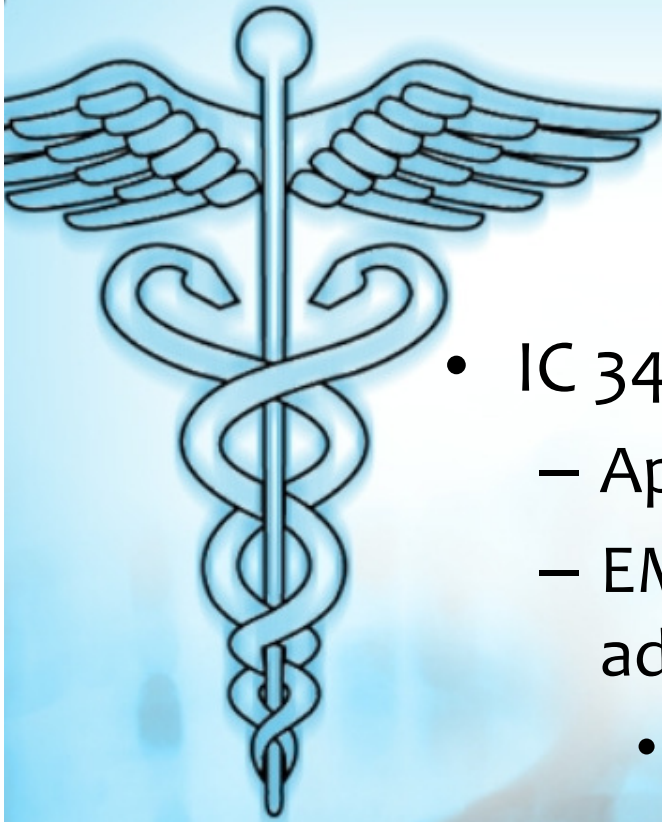




## Negligence

- Duty
  - Breach of Duty (deviation from reasonable action)
  - Foreseeability
  - Injury/Damages
- 
- Malpractice concerns deviation from standard practices of care





## Immunity/Good Samaritan

- IC 34-30-12-1(b)
  - Applies to all individuals
  - EMTs/other medical personnel may have additional layer of obligation
    - IC 10-14-3 et.al.
    - Gross negligence or willful misconduct does not apply

